

ASSEMBLY BILL

No. 1954

Introduced by Assembly Member Harkey

February 19, 2014

An act to amend Sections 4213, 4224, 4225, and 4228 of the Public Resources Code, relating to fire protection.

LEGISLATIVE COUNSEL'S DIGEST

AB 1954, as introduced, Harkey. Fire prevention fee: State Board of Equalization: appeal.

Existing law requires the State Board of Forestry and Fire Protection, on or before September 1, 2011, to adopt emergency regulations to establish a fire prevention fee in an amount not to exceed \$150 to be charged on each structure on a parcel that is within a state responsibility area, as defined, and requires that the fire prevention fee be adjusted annually using prescribed methods. Existing law requires the State Board of Equalization to collect the fire prevention fees, as prescribed, commencing with the 2011–12 fiscal year. Existing law requires that the fee be due and payable 30 days from the date of assessment by the State Board of Equalization and allows for a petition of redetermination to be filed with the department within 30 days after the fee is determined to be due. Existing law requires the order or decision upon a petition to become final 30 days after service upon the petitioner of notice of the determination.

This bill would authorize a person to appeal any order of the department that denies all or part of a refund of fee, penalties, or interest to the State Board of Equalization, as provided, within 90 days after a determination by the department. The bill would require the board to reconsider the amount determined to be due and to grant the person an

oral hearing, if one is so requested. The bill would require the state board to hear and determine the appeal and thereafter notify the person and the department of its determination. The bill would apply the above provisions relating to an appeal to any notice of assessment that is mailed after December 31, 2014. The bill would make other conforming changes.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 4213 of the Public Resources Code is
2 amended to read:

3 4213. (a) (1) Commencing with the 2011–12 fiscal year, the
4 fire prevention fee imposed pursuant to Section 4212 shall be
5 collected annually by the State Board of Equalization in accordance
6 with the Fee Collection Procedures Law (Part 30 (commencing
7 with Section 55001) of Division 2 of the Revenue and Taxation
8 Code).

9 (2) Notwithstanding the appeal provisions in the Fee Collection
10 Procedures Law, a determination by the department that a person
11 is required to pay a fire prevention fee, or a determination by the
12 department regarding the amount of that fee, is subject to review
13 under Article 2 (commencing with Section 4220) ~~and is not subject~~
14 ~~to a petition for redetermination by the State Board of Equalization.~~

15 (3) (A) Notwithstanding the refund provisions in the Fee
16 Collection Procedures Law, ~~the State Board of Equalization shall~~
17 ~~not accept any claim for refund that is based on the assertion that~~
18 ~~a determination by the department shall determine any claim for~~
19 *refund that is based on the assertion that the department*
20 *improperly or erroneously calculated the amount of the fire*
21 *prevention fee, or incorrectly determined that the person is subject*
22 *to that fee, unless that determination has been set aside by the*
23 *department, the State Board of Equalization pursuant to Section*
24 *4224, or a court reviewing the determination of the department or*
25 *the State Board of Equalization.*

26 (B) If it is determined by the department, *the State Board of*
27 *Equalization pursuant to 4224*, or a reviewing court that a person
28 is entitled to a refund of all or part of the fire prevention fee, the
29 person shall make a claim to the State Board of Equalization

1 pursuant to Chapter 5 (commencing with Section 55221) of Part
2 30 of Division 2 of the Revenue and Taxation Code.

3 (b) The annual fire prevention fee shall be due and payable 30
4 days from the date of assessment by the State Board of
5 Equalization.

6 (c) Within 30 days of the effective date of this chapter, the
7 department shall transmit to the State Board of Equalization, and
8 each January 1 thereafter, the appropriate name and address of
9 each person who is liable for the fire prevention fee and the amount
10 of the fee to be assessed, as authorized by this article, and at the
11 same time the department shall provide to the State Board of
12 Equalization a contact telephone number for the board to be printed
13 on the bill to respond to questions about the fee.

14 (d) Commencing with the 2012–13 fiscal year, if in any given
15 fiscal year there are sufficient amounts of money in the State
16 Responsibility Area Fire Prevention Fund created pursuant to
17 Section 4214 to finance the costs of the programs under subdivision
18 (d) of Section 4214 for that fiscal year, the fee may not be collected
19 that fiscal year.

20 SEC. 2. Section 4224 of the Public Resources Code is amended
21 to read:

22 4224. (a) The order or decision of the department upon a
23 petition for redetermination of the fire prevention fee shall become
24 final ~~30 days~~ *90 days* after service upon the petitioner of notice of
25 the determination, *unless within that 90-day period the person who*
26 *filed the petition appeals in writing from the department's action*
27 *to the State Board of Equalization pursuant to subdivision (b).*

28 (b) (1) *Any order or decision of the department upon a petition*
29 *for redetermination of the fire prevention fee that denies all or*
30 *part of a refund of fees, penalties, or interest, may be appealed in*
31 *writing to the State Board of Equalization.*

32 (2) *The department's notice of redetermination shall include*
33 *the date determined by the department as the last day on which*
34 *the petitioner may file an appeal with the State Board of*
35 *Equalization.*

36 (3) *Any appeal to the State Board of Equalization filed by the*
37 *petitioner on or before the date for filing an appeal specified in*
38 *the notice of redetermination shall be treated as timely filed.*

39 (4) *The petition for appeal may be amended to state additional*
40 *grounds or provide additional documentation at any time prior to*

1 *the date that the State Board of Equalization issues a decision*
2 *regarding the appeal.*

3 *(5) Two copies of the appeal and two copies of any supporting*
4 *documents shall be addressed and mailed to the State Board of*
5 *Equalization. Upon receipt of the appeal, the State Board of*
6 *Equalization shall provide one copy of the appeal and one copy*
7 *of the supporting documents to the department.*

8 *(6) (A) The State Board of Equalization shall reconsider the*
9 *amount determined to be due, and if the petitioner has so requested*
10 *in his or her appeal, the State Board of Equalization shall grant*
11 *the petitioner an oral hearing.*

12 *(B) The State Board of Equalization shall hear and determine*
13 *the appeal and thereafter shall notify the petitioner and the*
14 *department of its determination.*

15 *(7) This subdivision shall apply to any notice of assessment that*
16 *is mailed after December 31, 2014.*

17 *(8) If timely petition for appeal has been filed pursuant to this*
18 *section, all legal action to collect the fire prevention fee shall be*
19 *stayed pending the final determination by the State Board of*
20 *Equalization.*

21 SEC. 3. Section 4225 of the Public Resources Code is amended
22 to read:

23 4225. The fire prevention fee determined to be due by the
24 department *or the State Board of Equalization*, under this article
25 is due and payable at the time it becomes final, and if it is not paid
26 when due and payable, notwithstanding the penalty imposed
27 pursuant to Section 55042 of the Revenue and Taxation Code, a
28 penalty of 20 percent of the fee determined to be due shall be added
29 to the amount due and payable for each 30-day period in which
30 the fee remains unpaid.

31 SEC. 4. Section 4228 of the Public Resources Code is amended
32 to read:

33 4228. If the department *or the State Board of Equalization*,
34 *pursuant to Section 4224*, determines that a person is entitled to a
35 refund of all or part of the fire prevention fee paid pursuant to this
36 chapter, the person shall make a claim to the State Board of
37 Equalization pursuant to Chapter 5 (commencing with Section
38 55221) of Part 30 of Division 2 of the Revenue and Taxation Code.

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